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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,337	08/03/2001	John Blair	366.04	8212

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EXAMINER
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WINTER, JOHN M

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/922,337	<b>Applicant(s)</b> BLAIR ET AL.	
	<b>Examiner</b> John M. Winter	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 4-15 and 27-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-7, 12, 13, 27, 31-33, 37 and 38 is/are rejected.
- 7) ☒ Claim(s) 8-11, 14-26, 28-30, 34-36, 39 and 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

Claims 4-15 and 27-40 are pending.

### *Response to Arguments*

The Applicant's arguments filed on February 9, 2006 have been fully considered. The amended claims are rejected in view of newly discovered reference Archibald et al (US Patent 5,825,883). See following rejection.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-7,12,13,27,31-33,37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'toole, Jr. et al. (US Patent 6,279,112) in view of Daly et al (US Patent 5,878,141) and further in view of Archibald et al (US Patent 5,825,883).

As per claim 4,

O'toole, Jr. et al. ('112) discloses a method for transmitting content data over a computer network comprising

providing a first interface to a publisher to define content data objects;  
providing a second interface to a user of a client computer to select content data objects from the publisher;(Figure 2)

providing a third interface to the publisher and the user of the client computer to select payment terms and conditions for the transmission of content data objects from the publisher to the user(Figure 4A);

providing a switching network to transmit content data objects from the publisher to the user upon request from the user;(Figure 4B)

O'toole, Jr. et al. ('112) does not explicitly disclose managing a billing process for causing transfer of payment from the user to the publisher in exchange for transmission of requested content data objects, Daly et al, discloses managing a billing process for causing transfer of payment from the user to the publisher in exchange for transmission of requested content data objects (Figure 6); it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the O'toole, Jr. et al. With the Daly et al method in order to allow the merchant to realize a profit from the transaction.

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O'toole, Jr. et al. ('112) does not explicitly disclose wherein the content data objects are processed for transmission according to a type of client computing device operated by the user to access the data objects, Archibald et al ('883), discloses wherein the content data objects are processed for transmission according to a type of client computing device operated by the user to access the data objects (Figure 1, column 3, lines 56-67); it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the O'toole, Jr. et al. With the Archibald et al ('883) method in order to allow the merchant to realize a profit from the transaction.

Claim 27 is in parallel with claim 4 and is rejected for at least the same reasons.

As per claim 5,

O'toole, Jr. et al. ('112) discloses the method of claim 1

O'toole, Jr. et al. ('112) does not explicitly disclose determining the payment due to the publisher from the user depending upon a type of content data object requested by the user, Archibald et al ('883), discloses determining the payment due to the publisher from the user depending upon a type of content data object requested by the user (Figure 12); it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the O'toole, Jr. et al. With the Archibald et al ('883) method in order to allow the merchant to realize a profit from the transaction.

Claim 31 is in parallel with claim 5 and is rejected for at least the same reasons.

As per claim 6,

O'toole, Jr. et al. ('112) discloses the method of claim 1

O'toole, Jr. et al. ('112) does not explicitly disclose determining the payment due to the publisher from the user depending upon one or more characteristics associated with the user, Archibald et al ('883), discloses determining the payment due to the publisher from the user depending upon one or more characteristics associated with the user (Figure 13); it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the O'toole, Jr. et al. With the Archibald et al ('883) method in order to allow the merchant to realize a profit from the transaction.

Claim 32 is in parallel with claim 6 and is rejected for at least the same reasons.

As per claim 7,

O'toole, Jr. et al. ('112) discloses the method of claim 1

O'toole, Jr. et al. ('112) does not explicitly disclose wherein the one or more characteristics associated with the user comprise at least one of user identification, user credit rating, user payment history, and user geographical location, Archibald et al ('883), discloses wherein the one or more characteristics associated with the user comprise at least one of user identification, user credit rating, user payment history, and user geographical location (Figure 13); it would have been obvious to a person of ordinary skill in the art at the time of the

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invention to combine the O'toole, Jr. et al. With the Archibald et al ('883) method in order to allow the merchant to realize a profit from the transaction.

Claim 33 is in parallel with claim 7 and is rejected for at least the same reasons.

As per claim 12,

O'toole, Jr. et al. ('112) discloses the method of claim 1

O'toole, Jr. et al. ('112) does not explicitly disclose content data objects comprise one of digital text data, digital audio data, digital video data, and computer program data, Archibald et al ('883), discloses content data objects comprise one of digital text data, digital audio data, digital video data, and computer program data (Column 4, lines 20-40); it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the O'toole, Jr. et al. With the Archibald et al ('883) method in order to allow the merchant to realize a profit from marketing useful products.

Claim 37 is in parallel with claim 12 and is rejected for at least the same reasons.

As per claim 13,

O'toole, Jr. et al. ('112) discloses the method of claim 1

O'toole, Jr. et al. ('112) does not explicitly disclose the network comprises a wide area network coupling the publisher to the user client computer, Archibald et al ('883), discloses the network comprises a wide area network coupling the publisher to the user client computer (Figure 1); it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the O'toole, Jr. et al. With the Archibald et al ('883) method in order to allow the merchant to realize a profit from marketing useful products.

Claim 38 is in parallel with claim 13 and is rejected for at least the same reasons.

### ***Allowable Subject Matter***

Claims 8-11,14-26,28-30,34-36,39 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Examiners note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references

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in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the examiner should be directed to John Winter whose telephone number is **(571) 272-6713**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **James Trammell** can be reached at **(571) 272-6712**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Any response to this action should be mailed to:

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**Washington, D.C. 20231**

or faxed to:

**(571) 273-8300** Official communications; including After Final communications labeled "Box AF"]

Hand delivered responses should be brought to the Examiner in the Knox Building, 50 Dulany St. Alexandria, VA.

JMW  
April 17, 2006



**JAMES P. TRAMMELL**  
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